The Solicitors' Journal
and Weekly Reporter.

(ESTABLISHED IN 1857.)

LONDON, AUGUST 19, 1916.

ANNUAL SUBSCRIPTION, WHICH MUST BE PAID IN ADVANCE:
£1 6s.; by Post, £1 8s.; Foreign, £1 10s. 4d.
HALF-YEARLY AND QUARTERLY SUBSCRIPTIONS IN PROPORTION.

*** The Editor cannot undertake to return rejected contributions, and copies should be kept of all articles sent by writers who are not on the regular staff of the JOURNAL.

All letters intended for publication must be authenticated by the name of the writer.

GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The New Statutes.

WE CONTINUE printing this week the statutes of the present session. We commented in some detail last week on the new Finance Act, which makes important changes both as to rates of duties and as to income-tax and excess profits duty. The other statutes deal with a number of practical points, none of them of first importance. The new National Insurance Act (c. 20) extends the unemployment provisions of the Act of 1911 to munition work and certain other trades and employments in connection with the war, with power for the Board of Trade to make further extensions; the Re-Election of Ministers Act (c. 22) gets over a difficulty as to the re-election of Ministers on acceptance of office; the Gas (Standard of Calorific Power) Act (c. 25) enables a standard of calorific power to be substituted for one of illuminating power; the Output of Beer (Restriction) Act (c. 26) will be likely to present some arithmetical puzzles, and its effect on contracts (s. 4) should be noted; also the special provision (s. 5) as to free licensed houses. The Police, Factories, &c. (Miscellaneous Provisions) Act (c. 31) extends the power of pensioning constables and persons assisting them during the present war, regulates street collections, and enables "welfare" provisions to be made for workpeople. There seem to be certain relaxations of existing safeguards against accidents, and sections 11 and 12 carry the statute into the domain of lunacy and criminal law. The Trading with the Enemy (Copyright) Act (c. 32) vests in the Public Trustee copyrights arising during the war in favour of enemies, and the Army (Courts of Inquiry) Act, 1916 (c. 33), regulates the special procedure of such courts in view of some inquiries which are understood to be pending.

The Late Sir Kenelm Digby.

THE LATE Sir KENELM DIGBY was best known to lawyers by his Introduction to the History of the Law of Real Property, a book which explained in a useful and interesting manner a field which has since been more completely investigated by "Pollock and Maitland." But his life was one of very varied activities, and an appreciative account of him is contributed by Viscount BRYCE to the current number of the

Law Quarterly Review. After a distinguished career at Oxford he was called to the Bar at Lincoln's Inn in 1865, but in 1868 was elected Vinerian Reader in Civil and Common Law at Oxford, an appointment which led to the writing of the book just referred to. Unless a man has the means of ready entrance into practice such a diversion need not diminish his ultimate chances at the Bar, though teaching and practice cannot go far together. In 1874 he found it necessary to give up Oxford for business, and in 1878 was on the eve of being appointed to an official legal post. We are not told what it was, but it was in the gift of a Minister who lost office before the appointment had actually been made. On changes of Ministry there are not infrequently touch and go affairs of this kind. DIGBY lost the place, and it went to an aspirant of the opposite political colour. But we have known of a new Minister in such circumstances having the good faith to confirm his predecessor's nomination. Doubtless, however, it was for the best. DIGBY became county court judge of Derbyshire in 1892, and, after three years' service in that capacity, he was offered by Mr. ASQUITH, then Home Secretary, the office of Permanent Under-Secretary, which had just been vacated by the late Sir GODFREY LUSHINGTON.

A Servant of the State.

THIS OFFICE he retained until his retirement under the age limit—extended in his case by two years—in 1903. After his retirement he frequently acted as arbitrator or conciliator in labour disputes; the settlement in 1903 of a serious dispute in the tinplate trade is still, it appears, gratefully remembered in South Wales; and he gave continual service on Royal Commissions and Departmental Committees embracing the most diverse subjects: Alien Immigration (1903), Workmen's Compensation (1903-4), Scottish Universities (1909), Humber Conservancy, Pilotage, and so on. Lord BRYCE thus sums up his official character:—

> "As an official he was not only most careful and painstaking, but also judicious and tactful, a sound adviser in the criminal questions the Home Office had to deal with, and one who realized that it is the business of an official not only to see things well done, but also to make the public feel that things are being done in a courteous and considerate way."

Praise of a servant of the State could hardly go further. The article includes appreciations of Sir KENELM DIGBY by the Prime Minister and by Sir EDWARD TROUP, who was next under him at the Home Office and afterwards succeeded him.

Costs Incident to Specific Legacies.

THE DECISION of ASTBURY, J., in *Re Grosvenor* (*ante*, p. 681) very usefully settles a point which has frequently occasioned difficulty in practice. By whom are the costs of transfer of specific legacies to be borne—by the specific legatees or by the residuary estate? Costs which fall upon the residuary estate are included under the terms "testamentary expenses" or "executorship expenses," and the general scope of these was defined by JESSEL, M.R., in *Sharp* v. *Lush* (10 Ch. D. 468). They are the expenses incident to the duty of an executor, and these include the "ascertaining the debts and liabilities due from the testator's estate, the payment of such debts and liabilities, and the legal and proper distribution of the estate among the persons entitled." It was also held in that case that they include the cost of warehousing specific legacies in order to take care of them until the executor has assented. It is his duty not to assent to the legacies until he ascertains that there are sufficient assets; "therefore it must be a duty incident to his office to take care of them during the intervening period." But in *Re Pearce* (1909, 2 Ch. 819), where *Sharp* v. *Lush* does not appear to have been cited, EVE, J., pointed out that the assent relates back to the death of the testator. The specific legatee is entitled to the profits accrued since that time, and he ought also to be charged with the costs of preservation between the death and the assent. Accordingly a declaration to that effect was made in *Re Pearce*. So, again, in the recent cases of *Re De Sommery* (1912, 2 Ch. 622) and *Re Scott* (1915, 1 Ch. 592) it has been held that expenses incurred solely in respect of the specific legacies are payable by the specific legatee. In the former case executors, who were also trustees, assented to the bequest of certain French shares to themselves, and afterwards incurred expense in France in completing their title to the shares; in the latter case certain works of art in Paris which had been specifically bequeathed were subject to French death duties, and these had to be paid before the legatee could have possession of them. It was held, in the former case by PARKER, J., and in the latter by WARRINGTON, J., and the Court of Appeal, that the expenses so incurred were payable by the specific legatees. In the present case of *Re Grosvenor* these last two cases were treated as governing the incidence of the costs of transfer of a specific legacy to which the executors had assented, and it would be the same with the costs of conveyance of land specifically devised, where such conveyance is required. The assent severs the property from the testator's estate, and it is no longer part of that estate for the purpose of administration. Hence any assurance which the legatee or devisee requires for completing his title is a matter which concerns only himself, and he must pay the costs of it.

Trustees' Accounts and the Statute of Limitations.

UNDER THE Trustee Act, 1888, s. 8—the only part of the Act which was not absorbed in the Trustee Act, 1893—a trustee is in general entitled to the benefit of the Statute of Limitations where he has not personally benefited by a breach of trust, and the limit is the six years period under the Limitation Act, 1603. This applies also to actions for an account, though in applying the limit in practice it may still be necessary to go into matters more than six years old. The rule was laid down in *How* v. *Earl of Winterton* (1896, 2 Ch., p. 640). The action against the trustee is maintainable in respect of the balance in his hands six years ago and the moneys received since, and the earlier accounts are material in ascertaining what that balance was. But this is a different thing from taking the account strictly and disallowing every payment which the trustee cannot support by sufficient evidence. The strict account is necessary to ascertain what the defendant ought to have had at the beginning of the six years, but not to ascertain what he in fact had. Hence, although the statutory defence does not prevent the investigation of the accounts earlier than the six years, the nature of the investigation varies as the accounts in question are before that period or since. But the recent decision of NEVILLE, J., in *Re Williams* (1916, 2 Ch. 38), shews that it is important for a trustee under such circumstances to set up the statute at the right time. It is common knowledge that a defendant who relies on the Statute of Limitations must specially plead it; that is, in an action he must set it up in his defence. But, when accounts are asked for on originating summons there is no defence, and it is a question whether the statute must be set up, if at all, when the order for accounts is made or whether it can be set up before the Master on further consideration. Since, however, the defence of the statute will, if allowed, modify the form of the accounts, it should be set up when the accounts are directed, and NEVILLE, J., has held that it cannot be set up afterwards.

Non-publication of a Libel.

ONE OF the strangest possible points in the law of libel came up before BRAY, J., in *Powell* v. *Gelston* (reported elsewhere). A father instructed his son to write the defendant a letter, signed by the son and purporting to come from himself, making inquiries about the plaintiff. In reply the defendant sent his correspondent, the son, a letter accusing the plaintiff of being a swindler. Such a letter is obviously defamatory, and the jury found that it was written maliciously, so that any defence of "privileged occasion" was, of course, rebutted. Had the son, then, received and opened the letter, it is clear that the defendant would have been guilty of publishing to him a libel about the plaintiff. But that was

not what happened. The father opened the letter for his son and read it. The plaintiff was informed by him of the libel and sued the defendant. The defence was non-publication. True, the defendant had intended to publish the letter to a third party, the son: he had the *mens rea* to commit a libel. But he had failed to do so owing to the act of the father, who opened his son's letter—whether with authority or tortiously is irrelevant for the present purpose. The defendant—so the jury found on a question put to them by the learned Judge—had no reason to think that anybody but the addressee would open the letter. BRAY, J., held that there had been no publication of the libel and found for the defendant; for (1) the publication to the father was not the act of the defendant, he had no intention of sending him the letter; and (2) his intended publication to the son had been frustrated by the father's act, and had never taken place. There is an obvious analogy between this case and that of *Huth* v. *Huth* (1915, 3 K. B. 32), where the addressee's butler opened, out of curiosity, an unclosed envelope containing the alleged libel. In each case no publication took place. But is it not arguable that the wrongful act of the defendant—*i.e.*, the sending of a libel with malicious intent—estops him from saying that the person who read it was not intended by him to do so?

Injuries Arising from Mental Shock.

OLD PSYCHOLOGICAL theories as to the nature of the relation between body and mind are suggested to the mind of a reader with metaphysical tastes who peruses the judgment of the Court of Appeal in *Stride* v. *Southampton Gas Light and Coke Co.* (*Times*, 25th July). The case was one arising under the Workmen's Compensation Act, a statute which by some occult means seems constantly to raise questions of logic and metaphysics in the form of problems in law. A blacksmith's assistant met with a statutory accident which injured his back and one leg; for this he received compensation under the Act at the rate of 13s. a week—half his weekly wages. He was treated in a hospital for paralysis, but continued unable to walk, or even to stand. The employers asked for a review on the ground of expert medical evidence, which the county court judge accepted as correct, that the man had no longer any objective symptoms of paralysis, and that his present helplessness was due to loss of will-power, induced by the shock. It was agreed that he was the victim of a genuine delusion that he could not walk, and that this prevented him exerting his will-power to do so; he was not a malingerer, but a victim of hypochondria, which a military doctor compared to some forms of shell-shock exhibited by soldiers after a heavy bombardment. The question, then, was whether the applicant's inability to do his former work was the result of his accident or of a defective will. The Court of Appeal solved the problem by saying that the accident caused a defect of will-power, and that this caused the paralysis of the limb, which, in its turn, caused an incapacity to work, none the less real because based on a mental condition. In this chain of causation the accident appears at the beginning, and the inability to work at the end, and the applicant's incapacity must be regarded as due to the accident, so as to entitle him to retain his full statutory compensation.

At Torquay County Court last Saturday, says the *Times*, Miss West, daughter of Colonel West, of Torquay, sought to have John Harold Watson restrained from preventing her from seeing her father. Colonel West is a Crimean veteran, ninety years of age. On the occasion of his second marriage—he was then over eighty years of age—he settled £600 a year on his daughter. Mr. Watson is the second wife's brother, and it was alleged that he had control over Colonel West's affairs. In view of the conflicting statements about Colonel West's attitude to his daughter, his evidence was taken on commission. He said that he was quite able to look after himself, but when he was not able to do so he expected his daughter to look after him. He wished Mr. Watson and his niece to remain with him, but they were not to banish his daughter—if that were done he would "turn out the culprits." The case was settled out of court, Mr. Watson undertaking that Miss West should see her father at all reasonable times, and Miss West that she should leave the house if her father requested her to do so.

The Decisions of Questions *In Futuro.*

FOR some years past there has been a marked tendency on the part of the Court to relax the stringency of the old rule of the Court of Chancery not to decide future questions, but that there are limits to this relaxation is clearly shewn by the judgment of SARGANT, J., in the recent case of *Re Staples, Owen* v. *Owen* (1916, 1 Ch. 322). The rule is itself well established as a rule of practice, and is no doubt grounded on the dictates of justice as well as on convenience. Like most rules of this kind, it is usually assumed to be well founded, and learned judges in applying it have generally been satisfied to state the rule without stating the reasons why it exists. Consequently the authorities on the subject are not very numerous, and in the few cases where the Court has taken upon itself to explain the why and wherefore of the rule the explanations given have not always been the same.

No better instance can be given of the diligent care which the old Court of Chancery took to avoid prejudicing a future question than the vicissitudes of the case of *Wright* v. *Atkyns* (1810, 17 Ves. 255). Lord REDESDALE is supposed to have been one of the greatest exponents of the powers and duties of courts of equity, and to have been eminently distinguished for his knowledge of the practice of those courts. The orders in the last-mentioned case drawn up in the House of Lords, of which he was then a member, were framed with the utmost care so as to avoid prejudicing any future rights of the parties and to avoid a decision on those rights. Even Lord ELDON, who had made several orders in the same case, was held by the House to have erred in that his orders had sinned against the rule. The many stages in that litigation were reviewed at length by KNIGHT BRUCE, L.J., in *Langdale* v. *Briggs* (1856, 8 De G. M. & G. 391), where the learned Lord Justice remarks upon the fact as a matter for amazement, that the dispute in *Wright* v. *Atkyns* was one between a devisee claiming to be entitled to dispose of the fee under the will and the heir of the testator disputing that claim.

There appear, as stated above, to be two main grounds for the refusal of the Court to try a future question—justice and convenience. It is strictly in accordance with the dictates of justice that the rights of persons not parties to the proceedings should not have their rights determined to their prejudice. Future questions very often concern unborn persons. As regards convenience, it would seem that this is chiefly convenience from the point of view of the Court. Why should the Court concern itself with a determination which may subsequently prove barren of result? Time taken by the Court in arriving at a conclusion as to how the parties would stand if a certain future event happens is time wasted, if, in fact, that event never happens. So on the ground of convenience the Court very properly refuses, as a rule, to consider future questions. But this ground of convenience is not, in truth, a very stable one, for as JESSEL, M.R., pointed out in *Curtis* v. *Sheffield* (1882, 21 Ch. D. 1, at p. 4), where the parties are all of age and every possible party is before the Court, utility seems to say that there should be a power to determine their rights, whether future or otherwise.

Modern practice, and to some extent also alterations in the law, have tended towards a relaxation of the rule against deciding future questions. Thus, as was pointed out by SARGANT, J., in the recent case mentioned above, on a vendor and purchaser summons questions affecting the rights of persons not parties to the proceedings often have to be determined. On such a summons the Court is frequently called upon to construe a gift in a will upon which the title depends, and this is done as between the vendor and the purchaser, although persons interested under the will are not there to argue the point one way or another. Again, in cases under section 5 of the Conveyancing Act, 1881, the Court has decided future questions.

Thus, in *Re Freme's Contract* (1895, 2 Ch. 778), the Court of Appeal did not refuse to decide the question in that case on the ground that it affected the future rights of unborn children; and KEKEWICH, J., in the same case in the Court below, remarked that, with reference to deciding questions as to interests *in futuro*, the Court had of late years been disposed to be far less strict than it formerly was. That section of the Act of 1881 appears to contemplate a dealing by the Court with an incumbrance *in futuro*.

It has always been recognized that the rule admitted of exceptions. This principally occurred in cases where some immediate relief was asked for. "It was always the settled law of the old Court of Chancery," said JESSEL, M.R., in *Hampton* v. *Holman* (1877, 5 Ch. D. 183, at p. 187), "and it is therefore now the settled law of the Chancery Division, that it is not the province of the Court to declare the rights of parties except in cases where immediate relief can be given. . . . But where the Court is asked to do nothing more than to declare future rights, it is clear that the Court will not make any declarations as to future rights." Declarations of right where no relief is asked for can now be made by the Court under ord. 25, r. 5, but that rule has not affected, apparently, the general rule against deciding rights *in futuro*. The same learned Master of the Rolls laid it down in *Curtis* v. *Sheffield* (*supra*) that the Court would not decide future questions unless a present right depends upon the decision, or unless there were some special circumstances to satisfy the Court that it is desirable at once to decide on the future rights.

In the recent case before SARGANT, J.—*Re Staples, Owen* v. *Owen*—the learned Judge did not find any such special circumstances as to justify a departure from the general rule. The question raised was whether children of the testator's daughter were entitled under a devise in his will for an estate tail. The property was given to the testator's widow for life, and then devised to his daughter for life, and after her death to her children and their issue. The daughter was still living, and questions had arisen as to the nature of the estate taken by her children and issue in remainder expectant on her life interest. Part of the property had been sold, but in his lordship's opinion this constituted no greater reason for deciding who would be entitled to the money than for deciding who would be entitled to the land itself.

The Larceny Consolidation Bill.

IN many ways our criminal jurisprudence is the most archaic branch of the common law. It came into existence long before contracts or equities had been dreamed of in the philosophy of any law-giver, and therefore antiquated anomalies had become a part of its very fabric and stuff long before the reforming zeal of judges like COKE made any attempt to give it symmetry under the pretence of digesting it in "Institutes." But the changing standard of social values in the last three centuries has rendered necessary its extension and modification at the hands of the Legislature, with the inevitable result that a great series of statutes has come into existence, which amend the old law in fragments and thereby give it the appearance of a patchwork quilt. Forty years ago the late Sir JAMES STEPHEN, a great criminal judge and a lawyer of remarkably accurate and scholarly instincts, undertook the task of elucidating and codifying the law. He produced a Digest and a History of the Criminal Law which performed a real service; they formed the basis on which his successors in the task of codification have worked. But Parliament has never seriously followed up the work of codification, although Lord LOREBURN, when Chancellor, started the lesser task of consolidation—*i.e.*, the restatement in a single Act of the whole Common Law and Statute Law in the case of each particular offence. In 1911 the Perjury Act, and a year or two later the Forgery Act, were the first fruits of this effort. Now a Larceny Bill is in being and has been recommended to both Houses of Parliament for enactment by the Select Committee of ten lawyers, five peers and five commoners, which the two chambers of the Legislature jointly appointed to examine and report on it.

As in the case of its predecessors, the Perjury and Forgery Acts, the task of drafting it was entrusted to an extra-Parliamentary Committee, composed largely of eminent Treasury counsel, who employed the late Mr. FIELDEN CRAIES, the learned editor of Archbold's standard book on Criminal Pleading, to prepare a draft, which they discussed, amended and approved. The present Bill, we believe, was left unfinished by Mr. CRAIES; in any case, the approved draft appears to be the work of Sir F. F. LIDDELL, second Parliamentary counsel to the Treasury, and Mr. ROOME, Mr. CRAIES' coadjutor in the editing of Archbold. When the Bill had been introduced into the House of Lords it was sent for report to the Select Committee. There the two draftsmen were called as expert witnesses, and were cross-examined by the Committee as to the why and wherefore of each provision in the Bill. Their evidence is printed and appended to the Committee's Report, and should be read by those impatient reformers who cannot appreciate the pitfalls that lie in the way of codification where statutes are many and decisions are conflicting.

In preparing their draft it was, of course, the object of the draftsmen to state accurately the existing law without attempting to improve upon it. But here comes a preliminary difficulty: what are the precise limits of their subject-matter? Logically, it should include every provision of every statute relating to larceny and should exclude everything else. But, unfortunately, our criminal law is mixed up with other spheres of law, some of which have already been partially codified. For example, Post Office law and Merchant Shipping law are set out in special statutes, which for convenience include statutory provisions as to certain forms of larceny which specially concern postmen or sailors. Are these provisions to be repeated in the Larceny Act? The draftsmen were directed on this point, for the sake of completeness, to include in their draft the relevant Post Office offences, but the Post Office took objection. Offences under their Acts are prosecuted by them; they have their own counsel at the Old Bailey and on each circuit, and they complained that their vested interests in the offences were somehow infringed. It is not clear from the evidence what exactly was the departmental ground of objection; it seems to have been partly a dislike of having the same clauses in two separate statutes, and partly a fear that the wider rights as to "venue" and in some other matters of procedure, alleged to exist in the case of Post Office offences, would be imperilled by the inclusion of these crimes in the Larceny Act. At last the Solicitor-General offered an eirenicon in the shape of a suggestion that, instead of expressly including the disputed offences, the Bill should simply say "This Act is without prejudice to the provisions in" certain statutes to be set out in a schedule, including those about which the trouble arose.

Another general difficulty of the same kind arose at the outset. Larceny is a felony and an indictable offence, so the Act is confined to "indictable offences." But now and then amending statutes have created new larcenies unknown to the common law, and have made them—in some cases only when a first offence—not indictable but merely summary offences, *e.g.*, theft of a dog, or shrubs growing in a garden. Obviously the inclusion of these offences destroys the limitation of the Bill to indictable felonies, while their exclusion destroys its completeness as a summary of the law of larceny. The second alternative has been adopted by the draftsman, and perhaps it is the better of the two, but obviously here we come to pure anomalies in the law of larceny of which amendment is necessary.

The form of the Committee's amendments to the Bill is dictated by such difficulties as we have mentioned. To the approved clauses of the Bill are appended two schedules of amendments. The first of these appendices suggests only amendments which, in the opinion of the Select Committee, make the Bill a more accurate or convenient or concise statement of the existing law than did the equivalent words used by the draftsman. The second appendix suggests amendments intended to do away with obvious anomalies in the existing law which have ceased to have any meaning. For example, a youth under sixteen can be whipped for any indictable offence, but if he claim corruptly a reward for restoring a stolen dog he can be whipped up to the age of eighteen. This is clearly unreasonable, and the Committee propose to lower the age to sixteen in all cases. Again, the theft of wild animals reduced into possession and *fit for human food* is larceny, whereas the theft of wild animals similarly reduced into possession but *not fit for human food* is only a summary offence. The former class is divided in a very arbitrary way from the latter, *e.g.*, a lark is deemed fit for human food, but not so a canary! Hence a canary is denied the legal protection afforded to a lark—a curious distinction based on the days when larks and blackbirds were "a dainty dish to set before a king." The same archaic rule applies to the eggs of wild birds, with some additional anomalies in the case of royal birds such as the swan. These anomalies the Select Committee propose to get rid of.

Naturally the reformer of our laws, in substance as well as in form, would like to see a third appendix containing a third class of amendments—*i.e.*, substantive improvements in the law of larceny, its procedure, and its punishment. We need not refer to

the retention of flogging as a punishment for several kinds of larceny (clause 23), for that is a matter on which reformers differ. But the old rule which allows a sentence of fifty strokes of the cat in the case of adults, and twenty-five with the birch-rod in the case of boys under sixteen (clause 37 (6) (a) and (b)), is surely out of date. The maximum sentence ever nowadays regarded as proper is one of twenty strokes in the case of adults and twelve in the case of boys, and the statute might well make this change in the letter of the law. The complicated rules as to orders for the restitution of stolen property (clause 45) are another out of many matters where the existing law is capable of improvement. But the object of the Bill is not to amend, but merely to consolidate, the law of larceny, so that the Select Committee could scarcely consider points of this kind. We would, however, venture to suggest that the directions laid down for the guidance of the Committee should be wider on this point. They should be instructed not merely (1) to get the existing law accurately declared in the draft and (2) to suggest amendments of unsymmetrical anomalies, but also (3) to consider and suggest substantive improvements of the law they are codifying. Unless this is done, the result will be to produce a Code of Criminal Law which is not really in harmony with present views.

Reviews.

Books of the Week.

Journal of the Society of Comparative Legislation. Edited for the Society by Sir JOHN MACDONELL, K.C.B., LL.D., F.B.A., and EDWARD MANSON, Esq., assisted by C. E. A. BEDWELL, Esq. July, 1916.

Case and Comment. The Lawyer's Magazine, August, 1916. The Lawyers Co-operative Publishing Company, Rochester, New York. 15 cents.

An Epitome of Recent Decisions on the Workmen's Compensation Act.

By ARTHUR L. B. THESIGER, ESQ., Barrister-at-Law.

(Cases decided since the last Epitome, Vol. 60, page 477.)

(*Continued from page* 678.)

(2) DECISIONS ON THE WORDS "INCAPACITY RESULTING FROM AN ACCIDENT."

Southampton Gas Light & Coke Co. v. *Stride* (C.A.: Lord Cozens-Hardy, M.R., Pickford and Warrington, L.JJ., 10th, 11th, 12th and 24th July, 1916).

FACTS.—A blacksmith's assistant met with a serious accident in July, 1912, injuring his back and legs; he could not stand, but could use his arms. He was paid 13s., half wages, until 16th July, 1914, when the employers applied for diminution. It was admitted that he could not do his old work, but the county court judge thought he ought to try, and reduced the compensation to 10s. In October, 1915, the employers again applied for diminution, and the workman applied for an increase of compensation to 13s. According to the medical evidence he was not suffering from any organic injury, but the paralysis was due to loss of will power or defective will power. The county court judge thought that light work would effect a cure and reduced the compensation to a penny a week.

DECISION.—Loss of will power was due to the accident and caused the paralysis. In his condition he could not be expected to obtain light work. Compensation increased to 13s. a week. (*From note taken in court.* Case reported, *Times*, 25th July, 1916; *L. J.* newspaper, 5th August, 1916, p. 252.)

Lewis v. *Wrexham & Acton Collieries (Limited)* (C.A.: Lord Cozens-Hardy, M.R., Pickford and Warrington, L.JJ., 18th July, 1916).

FACTS.—A colliery labourer, who was over sixty years of age, and in a bad state of health, was injured by accident, breaking three ribs. The employers paid compensation for some twenty weeks, and then stopped the payments on the ground that he had recovered from the accident. Evidence was given that the workman had suffered from goitre for some years, that his arteries were thickened, and that he had kidney disease. All the doctors agreed that the ribs were healed, but did not agree whether the then existing incapacity for work was due to his previous state of health only, or was aggravated by the accident. The county court judge held that the incapacity was partially due to the accident, and awarded 5s. 7d. a week. The workman appealed.

DECISION.—The judge was right, as he found that the man was only partially incapacitated by the accident though totally incapacitated from other causes. (*From note taken in court.* Case reported *L. T.* newspaper, 29th July, 1916, p. 234; *L. J.* newspaper, 29th July, 1916, p. 386.)

(3) DECISIONS ON THE ASSESSMENT OF AMOUNT OF COMPENSATION.

Taylor v. *Powell Duffryn Steam Coal Co.* (C.A.: Lord Cozens-Hardy, M.R., Pickford and Warrington, L.JJ., 11th and 12th July, 1916).

FACTS.—A married woman was deserted by her husband in 1912, leaving her with three young daughters. In the same year she commenced to cohabit with one Price, by whom she had a daughter in October, 1914. Price handed practically his whole earnings to her for the upkeep of the household. In August, 1914, her husband joined the Army, and from then she received separation allowance of 23s. a week. In December, 1915, Price was killed by accident, and a claim for compensation was made on behalf of his illegitimate daughter. The county court judge held that she was only partially dependent on the deceased, as the separation allowance and the moneys received from Price were used indiscriminately by the mother for the maintenance of the whole family.

DECISION.—There was no evidence of the existence of a common fund, or that the mother used any of the separation allowance for the maintenance of the child of the deceased. Appeal allowed. (*From note taken in court.* Case reported SOLICITORS' JOURNAL, 5th August, 1916, p. 665; *W. N.*, 22nd July, 1916, p. 293.)

Cox v. *George Trollope & Sons* (C.A.: Lord Cozens-Hardy, M.R., Pickford and Warrington, L.JJ., 19th July, 1916).

FACTS.—A scaffolder was incapacitated by accident. He had been employed by the respondents for seven weeks in the winter, earning on the average £1 7s. 8½d. a week. Evidence was given that scaffolders were usually employed for short spells by various employers, but that there was generally enough work to keep them continuously employed. They earned more in the summer than the winter, the average over the whole year being £1 15s. 9½d. a week. The county court judge held that it was impracticable to compute the rate of remuneration fairly on the basis of his earnings over the seven weeks, and awarded 17s. 11d. a week, being half £1 15s. 10d.

DECISION.—The judge was right, the dominant principle being that expressed in Schedule I., cl. 2 (*a*). (*From note taken in court.* Case reported *Times*, 20th July, 1916; *L. T.* newspaper, 29th July, 1916, p. 234; *L. J.* newspaper, 29th July, 1916, p. 386.)

(4) DECISION ON THE WORD "WORKMAN."

Alderman v. *Warren* (C.A.: Lord Cozens-Hardy, M.R., Pickford and Warrington, L.JJ., 17th July, 1916).

FACTS.—A rag and bone dealer also did occasional odd jobs. He was injured by accident while taking down a stove in the bar of a public-house which was out of order. The county court judge held that he was a workman within the meaning of the Act, because, although his employment was of a casual nature, it was "for the purposes of the employer's trade or business." He awarded 12s. 6d. a week, half the amount earned from his business as a rag and bone dealer.

DECISION.—The work done was not for the purposes of the employer's trade or business. Further, compensation, if payable, should have only been estimated on the basis of his earnings under his occasional contracts of service, and not in his business as a rag and bone dealer. (*From note taken in court.* Case reported *Times*, 18th July, 1916; *L. T.* newspaper, 29th July, 1916, p. 234; *L. J.* newspaper, 5th August, 1916, p. 399.)

(5) DECISION AS TO CLAIM FOR COMPENSATION.

Harper v. *Harper* (C.A.: Lord Cozens-Hardy, M.R., Pickford and Warrington, L.JJ., 13th and 14th July, 1916).

FACTS.—A seaman was employed on a vessel, the master of which was entitled to two-thirds of the earnings and the owner to one-third. He was injured by an accident arising out of and in the course of his employment. When the crew was discharged at the end of the voyage he executed a release from all claims as required by the Merchant Shipping Act, 1894, but claims under the Workmen's Compensation Act were expressly excepted by the release. No claim for compensation was made within six months of the accident, but it was argued that the exception from the release must be taken to be a claim on anyone it might concern. The county court judge held that no claim had been made within six months, and that the failure to do so was not occasioned by mistake or other reasonable cause.

DECISION.—The judge was right. The exception to the release could not be regarded as a notice of claim. (*From note taken in court.* Case reported *L. T.* newspaper, 22nd July, 1916, p. 216.)

Judge Percy Gye, of Pipers Field, Weeke, Winchester, county court judge of Hampshire since 1896, fourth son of the late Mr. Fredk. Gye, left estate of gross value £2,557.

CASES OF LAST SITTINGS.

House of Lords.

***Re* PETITION OF RIGHT OF X.** 21st, 24th, 25th, and 27th July.

CROWN—DEFENCE OF THE REALM—COMPULSORY OCCUPATION OF LAND BY MILITARY AUTHORITIES—PUBLIC SAFETY—CLAIM BY OWNERS FOR COMPENSATION—DEFENCE ACTS, 1842-1875—DEFENCE OF THE REALM CONSOLIDATION ACT, 1914 (5 GEO. 5, C. 8)—REGULATIONS OF 27TH NOVEMBER, 1914, R. 2—MILITARY LANDS ACTS, 1891-1903.

Appeal by the suppliants from a decision of the Court of Appeal (reported 59 SOLICITORS' JOURNAL, 655; 1915, 3 *K. B.* 649), *withdrawn on the terms of a settlement that compensation would be paid them for and in respect of certain lands and buildings thereon compulsorily taken by the military authorities after the outbreak of the war for the public safety.*

Appeal by the suppliants from the decision of the Court of Appeal. The suppliants claimed a declaration that they were lawfully entitled to proper compensation for and in respect of their land and premises taken and held by the competent naval and military authorities on the outbreak of the present war between Great Britain and the German Empire. Avory, J., whose decision was affirmed by the Court of Appeal, held that the prerogative right of the Crown to take possession of and occupy any land for the purposes of the defence of the realm without making compensation therefor to the owner was not limited to a case of actual invasion rendering immediate action necessary, and that any compensation paid to owners or occupiers in such circumstances was an act of grace. The suppliants appealed. By consent, during the hearing of the appellants' case, the appeal was withdrawn.

Sir F. E. SMITH, A.-G., said their lordships would not be further troubled with the matter. A settlement had been come to under which the suppliants would receive a sum in compensation, and in the event of the parties not agreeing as to the amount, it would be decided by arbitration. The special circumstances of this case had given the suppliants good grounds for believing that their land was taken under the Defence Act, 1842, which would entitle them to compensation in accordance with the provisions of the Lands Clauses Act, 1845. The Crown was therefore willing to pay compensation for their occupation, and it was proposed, subject to the leave of the House, that the appeal should be withdrawn on terms agreed between the parties.

THE HOUSE (Earl LOREBURN, Lord PARKER, and Lord SUMNER) sanctioned the settlement, and the appeal was withdrawn.—COUNSEL, for the suppliants, *P. O. Lawrence*, K.C., *Leslie Scott*, K.C., and *Frank Gover*; for the Crown, *Sir F. E. Smith*, A.-G. (*Dicey*, K.C., and *Bransom* with him). SOLICITORS, *Wingfield, Blew, & Kenward*; *Treasury Solicitor.*

[Reported by ERSKINE REID, Barrister-at-Law.]

ASSOCIATED NEWSPAPERS (LIM.) AND OTHERS *v.* LONDON (CITY) CORPORATION. 23rd, 25th, and 26th May; 27th July.

RATES—CITY OF LONDON—LAND RECLAIMED FROM THE RIVER THAMES—EXEMPTION FROM TAXES AND ASSESSMENTS—GENERAL RATE—CONSOLIDATED RATE—POLICE RATE—STATUTE OF 1767 (7 GEO. 3, C. 37), S. 51.

The appellants were occupiers of premises built on land within the area reclaimed from the River Thames, and exempted from "all taxes and assessments whatsoever" by section 51 *of the Act of* 7 *Geo.* 3, *c.* 37. *They were rated to the general rate levied by the respondents, and, on a case stated, the Court of Appeal held that, as the rates in question were substantially new rates since the Statute of* 1767 *was passed, the exemption from liability did not apply and the appellants were liable to pay.*

Held (Lord Sumner *dissenting on the ground only that these were new taxes to which the exemption did not apply*), *that the words in section* 51 *of the Act of* 1767, "*free from all taxes and assessments whatsoever*," *applied to all local taxes whether old or new, and that the appellants were therefore not liable to pay the rate in question.*

Held further by all their lordships, that the words "or otherwise" in section 169 *of the City of London Sewers Act*, 1848, *did not impliedly repeal the exemption, and that that question was concluded by* London Corporation *v.* Netherlands Steamboat Co. (1906, *A. C.* 263).

Decision of the Court of Appeal (59 SOLICITORS' JOURNAL, 545; 1915, 3 *K. B.* 128) *reversed.*

Sion College *v.* London Corporation (1901, 1 *K. B.* 617) *overruled.*

Appeal by the Associated Newspapers (Limited) and Others, as owners and occupiers of certain land adjoining the River Thames, against an order of the Court of Appeal on a case stated raising the question whether the exemption from payment of "all taxes and assessments whatsoever" granted to the owners of land reclaimed from the river by section 51 of the Statute of 1767 was limited to rates then in existence. The Court of Appeal held that the rates in question in this appeal were substantially new rates and that the exemption did not apply. At the close of the arguments judgment was reserved.

Viscount HALDANE said the first question was the construction of section 51 of the Act of 1767. The Act provided for various improvements to be effected within the City of London and among them for the reclamation of the land forming part of the bed of the River Thames. The section provided that the land reclaimed should vest in the owners of the adjoining wharves or grounds "free from all taxes and assessments whatsoever." The question had arisen whether the exemption related only to taxes and assessments, the existence of which dated back to the time when the Act was passed, or whether it extended to taxes and assessments which had subsequently been imposed, and which were not mere substitutes for such as existed when the statute first became operative. The rate in question was a general rate made by the respondents, under which it was sought to rate the appellants in respect of land in their occupation which formed a part of the land reclaimed. It was agreed that the general rate was to be treated as divisible—as though certain special rates included in it were separate rates and not one entire rate. The only separate items of rate to which it was necessary to refer were (1) those for the expenses of paving, &c., and sanitary charges, which were included in what was called the consolidated rate; and (2) for expenses in respect of police. The respondents' contention was that these rates, with variations which did not destroy their identity, had been in existence from, and dated anterior to, the statute. It was, however, plain that this question was important only if the exemption be held not to extend to rates imposed subsequently to the passing of the statute. Having dealt with the view taken as to this by both the Divisional Court and the Court of Appeal, his lordship concluded by saying: I have dealt with the relevant authorities thus fully in order to make it clear that, in my opinion, they do not preclude us from attributing to the words of the Act of Geo. 3 what seems to me to be their natural operation—an operation which extends to future as well as then existing rates. The result is that it becomes unnecessary to consider whether the police rate or the consolidated rate can be regarded as being merely old rates imposed under new statutory conditions, and variations which do not affect their identity with rates existing antecedently to that statute. I am accordingly of opinion that this appeal ought to succeed, and that it should be held that the appellants are not liable to pay the sums referred to in the special case, as sought to be assessed on them.

Lord SUMNER read a judgment, in which he agreed with the Court of Appeal. He thought the question in the present case was decided by the decision of this House in *London Corporation* v. *Netherlands Steamboat Co.* (1906, A. C. 263).

Lords PARMOOR and WRENBURY read judgments agreeing with Lord Haldane. By a majority, therefore, the appeal was allowed with costs. —COUNSEL, for the appellants, *Sir Robert Finlay*, K.C., *Macmorran*, K.C., and *Konstam*; for the respondents, *P. O. Lawrence*, K.C., *Ryde*, K.C., and *Boydell Houghton.* SOLICITORS, *Rollit, Sons, & Compston*; *The City Solicitor.*

[Reported by ERSKINE REID, Barrister-at-Law.]

High Court—Chancery Division.

***Re* MUSGRAVE. MACHELL *v.* PARRY.** Neville, J. 5th and 6th June.

SETTLED LAND—ANNUITY—PERSON WITH POWERS OF A TENANT FOR LIFE—ACCUMULATION OF RENTS TO MAKE A ROAD—SETTLED LAND ACT, 1882 (45 & 46 VICT. C. 38), S. 2, SUB-SECTION 7; S. 58, SUB-SECTION 1 (VI.)—ANNUITY TO BE PAID WITHOUT DEDUCTIONS—INCOME TAX NOT DEDUCTED—MISTAKE OF LAW—TRUSTEES' RIGHT TO RECOUP THEMSELVES.

A testator gave certain lands to his four grandsons as tenants in common for life, with cross remainders between them, and to sink into residue after the death of the survivor. Subsequently, by a codicil, he directed his trustees to demise the lands, and accumulate the rents for ten years for a specific purpose. If this was not carried into effect the accumulations were to sink into residue.

Held, that the tenants for life had a present interest, "subject to a trust for accumulation of income for payment of debts or other purpose," and that, as there was no reason for limiting the generality of the words "or other purpose," the grandsons were accordingly tenants for life under section 58 (1) (vi.) *of the Settled Land Act*, 1882, *and were entitled to exercise all the powers of the Act.*

Re Strangways (1885, 34 *Ch. D.* 423) *distinguished.*

Where annuities are given by a will to be paid without deductions, the trustees are not justified in paying such annuities without deducting income tax. Trustees have, by the universal practice of the courts, a right to recoup themselves for such payments made by honest mistake out of future payments of annuities, and the cases as to not being able to recover money paid by mistake of law do not apply. That rule only applies to a mistake of public law.

This was an originating summons taken out for the determination (*inter alia*) of the questions whether, notwithstanding the interest given by the testator's further codicil to the trustees to accumulate and appropriate accumulations, the testator's four grandsons named in his second codicil were tenants for life, or had the powers of a tenant for life under the Settled Land Acts; and whether the annuities bequeathed by the said will, without deduction, were given free of income tax; and, if not, whether the trustees were entitled to deduct payment of income tax already made out of the residuary estate from future payments of the annuities. The testator by his will and second codicil gave certain lands to his four grandsons as tenants in common for life, with cross-remainders between them, and after the death of the survivor

directed that the same lands should sink into his residuary estate. By his fourth codicil the testator directed the trustees of his will, notwithstanding anything contained in his will and the first three codicils, to demise the lands thereby given, and accumulate the rents for a term of ten years from his death, and appropriate the accumulations in or towards the construction of a carriage road over the Styhead Pass, in Cumberland, which was partly included in the said lands; and if the said road should not be constructed within ten years of his decease, he directed that the accumulations should sink into his residuary estate. The testator also gave a number of annuities to be paid without deduction. He died in 1912, and the trustees took possession of the lands and accumulated the rents, and had paid some of the annuities without deducting income tax. The cases on the subject included *Re Llewellyn* (1911, 1 Ch. 451), *Re Edwards' Settlement* (1897, 2 Ch. 412), *Re De Hoghton* (1896, 1 Ch. 853), and *Williams* v. *Jenkins* (1893, 1 Ch. 700).

NEVILLE, J., after stating the facts, said: It is settled that section 2, sub-section 7, of the Settled Land Act, 1882, applies where the tenant for life holds subject to any term for accumulations which in any way provides for incumbrances. In *Re Strangways* (*supra*) Cotton, L.J., held that the existence of a trust for accumulations during a term of twenty years prior to the estate of the tenant for life prevented his being a tenant for life in possession. The ground of that decision, however, was that the tenant for life took no estate or interest in the land at all until the expiration of the term of twenty years, and therefore could not be said to have an estate for life "subject to a trust for accumulation of income for payment of debts or other purpose" within section 58 (1) (vi.) of the Act. In the present case I think the tenants for life have a present interest subject to a trust for accumulation. It is not for the payment of debts, but I see no reason for limiting the generality of the words "or other purpose," and therefore hold that the grandsons are tenants for life under section 58 (1) (vi.) of the Act, and are entitled to exercise all the powers of the Act. As to the income tax question, I do not think the trustees are justified in paying the annuities without deducting the income tax. But it is the universal practice of the Court, when administering an estate, to allow a trustee who has by honest mistake overpaid a *cestui que trust* to adjust the accounts between them by retaining what he has so paid out of future payments due to the *cestui que trust*. This practice is not overridden by cases cited deciding that no one can recover money paid under a mistake of law. This rule only applies to a mistake of public law.—COUNSEL, *Jenkins*, K.C., and *Kenneth Wood*; *Ward Coldridge*, K.C., and *W. R. Sheldon*; *G. M. Hildyard*; *Butcher*, K.C., and *Austen-Cartmell*; *W. Compton Smith*; *J. W. Manning*; *R. H. Hodge*. SOLICITORS, *Bischoff, Coxe, Bompas, & Bischoff*, for *Waugh & Musgraves*, Cockermouth; *Rawle, Johnstone, & Co.*, for *Musgrave & McKelvie*, Whitehaven; *May, How, & Chilver*; *Morse, Hewitt, Farman, & Walter*; *E. Flux, Leadbitter, & Neighbour*, for *Leadbitter & Harvey*, Newcastle-on-Tyne.

[Reported by L. M. MAY, Barrister-at-Law.]

GILBERT *v.* **GOSPORT AND ALVERSTOKE URBAN DISTRICT COUNCIL.** Sargant, J. 11th July.

COSTS—PUBLIC AUTHORITY—SOLICITOR AND CLIENT COSTS—ACTION DISMISSED FOR WANT OF PROSECUTION—"JUDGMENT" OR ORDER—PUBLIC AUTHORITIES PROTECTION ACT, 1893 (56 & 57 VICT. c. 61), s. 1 (b)—R.S.C., ORD. 36, R. 12.

An order dismissing an action for want of prosecution under ord. 36, r. 12, is a "judgment" within the meaning of head (b) *of section 1 of the Public Authorities Protection Act, 1893, entitling the defendant council to costs as between solicitor and client.*

In this case an action had been brought by one Gilbert against the Gosport and Alverstoke Urban District Council claiming a declaration that a certain piece of land was the property of the plaintiff and not part of the public highway, and an injunction to restrain the defendant council from trespassing thereon, and for other relief. The pleadings were closed, and certain evidence was taken on commission, but the plaintiff did not set the action down for trial, and the defendant council applied for and obtained an order dismissing the action with costs for want of prosecution. The taxing master allowed the defendant council's costs as between solicitor and client, and the plaintiff thereupon took out this summons to review. Counsel for the plaintiff contended that a judgment was quite different from an order. Here the mind of the Court had not been directed to the matter at all, and he referred to *Onslow* v. *Commissioners of Inland Revenue* (25 Q. B. D. 465), *Shaw* v. *Herts County Council* (1899, 2 Q. B 282), *Chamberlain* v. *Mayor, &c., of Huddersfield* (18 Rep. Pat. Cas. 454), *Fielding* v. *Morley Corporation* (1899, 1 Ch. 4), and many other cases. He said that in all the decisions given upon the section the *res* was *judicata*; the matter was disposed of so that there was finality either *in invitum* or by consent, but here a fresh action could be commenced to-morrow. He submitted that the question was—had a judgment been obtained? He submitted it had not. He also submitted that this section did not apply to a case where the proprietorship of land was in question, and referred to *Cross* v. *Rider* (29 T. L. R. 85, also reported at 77 J. P. 84). He suggested that the intention in this case was not to obtain a judgment but to get rid of the proceedings. Counsel for the defendant council contended that a judgment may be final or interlocutory, as contemplated by ord. 58, rr. 3 and 15, and under rule 15 there can be a final order on an interlocutory application. He referred to the orders and rules, and cited *Armour* v. *Bate* (1891, 2 Q. B. 253), and contended that there was no authority that a judgment or order dismissing an action under any of the interlocutory rules is not a judgment within the Act. The case of a notice of discontinuance is quite different: *Smith* v. *North Leach Rural District Council* (1902, 1 Ch. 197).

SARGANT, J., after stating the facts, said: This is an application by the plaintiff in the action to review the taxation of costs, and the question is whether the defendants are entitled to have their costs as between solicitor and client. The action went past the stage of pleadings, and ultimately the plaintiff found that he was not in a position to proceed with it. An order was made that the action do stand dismissed out of this Court for want of prosecution, and on the taxation the defendant council were allowed by the taxing master costs as between solicitor and client, he relying on head (*b*) of section 1 of the Public Authorities Protection Act, 1893. Now the question is: Was this a "judgment" obtained? There can be no question that the order does finally dispose of this particular action between the plaintiff and defendant. Probably it was not *res judicata* in respect of the subject matter. As long ago as 1899 Lord Lindley held in *Fielding* v. *Morley Corporation* (*supra*) that a judgment or order in the Chancery Division dismissing the action with costs was equivalent to a judgment for the defendant in its terms. It is clear that an order in this form does not depend upon the Court having adjudicated upon the matter: see *Shaw* v. *Herts County Council* (*supra*). The section also applies to a judgment obtained in default of appearance: *Armour* v. *Bate* (*supra*). Is there any real difference in substance? Romer, L.J., says: "The Act applies when substantially the defendant obtains judgment." This is a good guide. Here the defendant council has substantially obtained judgment. The plaintiff has not chosen to prosecute his action as far as trial. The *North Leach case* quoted is quite different. There the question of the difference between costs payable under an order of the Court and costs payable according to the rules is being considered. I hold that this order, made under ord. 36, r. 12, dismissing the action for want of prosecution, is in effect a judgment obtained by the defendants within the meaning of head (*b*) of section 1 of the Public Authorities Protection Act, 1893, and that the defendant council under that provision are entitled to have their costs as between solicitor and client.—COUNSEL, *Warwick H. Draper*; *J. M. Gover*. SOLICITORS, *Fraser & Christian*, for *B. J. Gilbert*, Portsmouth; *Mills & Morley*, for *E. J. Béchervaise*, Gosport.

[Reported by L. M. MAY, Barrister-at-Law.]

King's Bench Division.

HULTON *v.* **HULTON.** Lush, J. 4th July.

HUSBAND AND WIFE—SEPARATION DEED—AMOUNT OF MAINTENANCE—FRAUD AND MISREPRESENTATION—ACTION BY WIFE FOR DAMAGES—RESCISSION OF DEED—DECLARATION—MARRIED WOMEN'S PROPERTY ACT, 1882 (45 & 46 VICT. c. 75), s. 12.

A married woman, though proving that she was induced by the fraud and concealment of her husband to execute a deed of separation, cannot sue the husband for damages in tort, but she is entitled to have the deed rescinded, or alternatively to claim and obtain a declaration in lieu of rescission.

Trial of an action before Lush, J., and a special jury. This was an action for fraud brought by the wife of the defendant. She alleged that the defendant, by fraudulent representations and concealment of his means, induced her to enter into a deed of separation and accept an inadequate allowance. Subsequently to the issue of the writ the parties were divorced. In addition to the claim in tort, she further claimed to set aside the deed on the ground of fraud. The learned Judge held that the plaintiff could not sue for the tort, and that she had no rights which she could enforce in a court of common law. On the question of fraud, it was left to the jury to say whether the plaintiff was induced by the fraudulent representations and concealment of the defendant to execute the deed. They answered this question in the affirmative, and judgment as to the effect of this finding was reserved.

LUSH, J., in delivering judgment, said that the jury having found that the deed of separation was induced by fraudulent misrepresentations, and he himself having held that the plaintiff was not entitled to recover damages, he had to decide whether she was entitled to rescission and to a declaration, either in addition to or in lieu of rescission. The first question was whether the same difficulty applied to those forms of relief as applied to the claim for damages. Was an action for rescission on the ground of fraud, or for a declaration, an action for a tort, and therefore prohibited by section 12 of the Married Women's Property Act, 1882? He did not think that it was, though a tort had to be proved. He thought what the Legislature intended to prohibit was ordinary actions of tort, personal torts, brought to recover damages, or, as in *Webster* v. *Webster* (1916, 1 K. B. 714), to prevent the commission of a tort. But to prevent application to the court for relief against a contract or conveyance improperly obtained would be very unreasonable. Before the Act it was held, in *Evans* v. *Carrington* (3 De G. F. & J. 481), that relief could be given. The fraud there was committed during the coverture, and it certainly was not considered that the plaintiff was suing for a tort committed during the coverture. Section 12 of the Act cannot have deprived the wife or husband of the right to have a contract or deed set aside if improperly obtained. With regard to the declaration, it is equally clear that the section does not prohibit an action for that purpose. In asking to have declared that the deed is avoided, it is not possible to say that the wife is suing her husband for a tort, or that the section has prohibited her from doing so. It was said that the Court had never ordered rescission where the party claiming it had acquiesced in or acted upon the deed, and taken benefits under it, after discovering the fraud, and that the plaintiff so acted by accepting two quarters' payments under the deed. If there had been a clear admission shewing an unequivocal intention to treat the contract as still subsisting, and relying exclusively on the claim for damages, it would have been wrong to allow the plaintiff to obtain rescission after failing to recover damages. But that was not the case here. Then it was said there could not be *restitutio in integrum*; therefore there ought not to be rescission. The learned Judge having dealt with the facts, held that there was no reason on this account for refusing rescission. The next question was whether the plaintiff was entitled to the declaration claimed in addition to or in substitution for rescission. This claim really appeared to be a more appropriate remedy in a case like this, if it were available at all. If a conveyance has been executed and property transferred, actual rescission may be necessary; but where the subject-matter of the action is a contract which for all material purposes has come to an end, a declaration appears to be all that is required, and the plaintiff could obtain it, as further or other relief, without specifically claiming it in her statement of claim. Ord. 30, r. 6, expressly provides for such a case as this. The claim for rescission and for the declaration was made because the charge of fraud on the pleadings had to be tried before the plaintiff could protect herself in the maintenance proceedings. The fact that the wife of a divorced husband agreed to live apart from him and to take a small and wholly inadequate allowance, having regard to his means, was a circumstance which would be taken into consideration by the Judge of the Divorce Court in determining what amount of maintenance should be paid. The defendant asserted that the plaintiff deceived him into marrying her, and that this explained the small allowance. In these circumstances the plaintiff sought to have the declaration in order to safeguard her rights in the maintenance proceedings. The learned Judge held that the plaintiff was entitled to have the deed rescinded and a declaration, and that she would have been entitled to the declaration if she had asked for nothing more, and he gave judgment to that effect.—COUNSEL, *Sir J. Simon*, K.C., *Hemmerde*, K.C., *D. M. Hogg*, and *P. Guedalla; Gordon Hewart*, K.C., and *McCardie*. SOLICITORS, *Guedalla & Jacobson; Lewis & Lewis*.

[Reported by G. H. KNOTT, Barrister-at-Law.]

POWELL *v.* GELSTON. Bray, J. 26th June; 27th July.

LIBEL—PUBLICATION—UNINTENDED OR ACCIDENTAL PUBLICATION—LETTER OPENED BY PERSON OTHER THAN THE PERSON TO WHOM SENT.

The plaintiff having advertised a house for sale, his advertisement was answered by H. W. Pollard, whose son, F. W. Pollard, wrote for his father to the defendant, making inquiries regarding the plaintiff. The letter (in answer) containing the alleged libel, being sent to the son's address, was opened by the father in his son's absence, and the son did not see it.

Held, that there was no publication of the libel.

Action tried by Bray, J. In June or July, 1915, the plaintiff advertised his house, called Beech House, for sale. A Mr. H. W. Pollard, the father of F. W. Pollard, answered the advertisement. On 9th October F. W. Pollard, the son, wrote a letter to the defendant making inquiries as to the plaintiff. This letter was written by him on the request of his father, who happened to be staying with him for the week-end. The son wrote in his own name and from his own address asking for the information in confidence, saying that he would not let the plaintiff know what the defendant might answer. The defendant replied in a letter of 11th October, which contained the alleged libel. He directed it to the son's address, his business premises, and the letter was opened by the father in his son's absence; and it was never seen by the son at all. Neither father nor son was known to the defendant. The son kept no clerk, and evidence was given to shew that the defendant, when he wrote the letter of 11th October, knew nothing about the father having requested his son to write the letter, nor did he know that the letter would be likely to be opened by the father or by anyone other than the son. On these facts the defendant submitted that there had been no publication of the libel. In answer to questions left to them by the Judge, the jury found (1) that the defendant did not know or expect that the letter of 11th October might probably be opened or seen by a third person other than the person to whom it was addressed; (2) that the defendant did not *bonâ fide* believe what he wrote was true; (3) that he was actuated by malice in writing the letter; (4) that the plaintiff did not instigate Pollard to write the letter of 9th October; and they found £75 damages. *Cur. adv. vult.*

BRAY, J., in delivering judgment, said: This action was brought to recover damages in respect of four slanders and one libel. The jury found for the plaintiff on three of the slanders, and assessed the damages in respect of those at £15, £20 and £15, making in all £40. They found for the defendant on the fourth slander. No question arises now as to the slanders. Upon the libel they found for the plaintiff damages £75, subject to one finding. The defendant contended that there had been no publication of the libel, and to enable me to decide that point I put this question to the jury: Did the defendant know or expect that the letter might probably be opened or seen by a third person other than the person to whom it was addressed? The jury answered "No." It was admitted that there was no publication to the son, and it was said that the defendant was not responsible for the publication to the father. Such publication, it was argued, was not authorized by him expressly or impliedly nor intended by him. This was the question I had to decide. I left the question to the jury, which they answered in the negative; but, in fact, I think there was no evidence which would have justified the answer "Yes." There was no doubt that to give a cause of action there must be a publication by the defendant. That is the foundation of the action, and publication to the plaintiff is no publication. For the plaintiff, it was contended that the defendant intended that the letter should be published to someone, and it was immaterial whether it was to the father or the son. I do not think it is immaterial. The consequences and the damage might be very different. If published to A it might cause very little damage to the plaintiff; if published to B the consequences might be much more serious. The cases of *Delacroix* v. *Thevenot* (2 Stark. 63), *Gomersall* v. *Davies* (14 Times Law Rep. 430), and *Sharp* v. *Skues* (25 Times Law Rep. 336), shewed that, where to the defendant's knowledge a letter was likely to be opened by a clerk of the person to whom it was addressed, the defendant was responsible for the publication to that clerk. As Lord Ellenborough said in *Delacroix* v. *Thevenot*, it must be taken that such a publication was intended by the defendant. On the other hand, in *Sharp* v. *Skues* Cozens-Hardy, M.R., said: "It would be a publication if the defendant intended the letter to be opened by a clerk or some third person not the plaintiff, or if to the defendant's knowledge it would be opened by a clerk. But the jury had negatived this in the clearest terms, and under these circumstances it was impossible to hold that some act done by a partner or a clerk of the plaintiff by his direction and for his own convenience when absent from the office could be a publication." Some cases of criminal libel had been cited, but in his opinion they had no application. In this case the defendant was asked by the son to answer the questions in confidence, and the son promised that he would not let the plaintiff know what the defendant had written. The son was asking for an answer that he and he alone would see. The defendant's answer was intended for the son alone. Under these circumstances the defendant was not responsible for the publication to the father. There was therefore no publication of the libel.—COUNSEL, *J. B. Matthews*, K.C., and *Ernest Walsh*; *F. W. Sherwood*. SOLICITORS, *Andrew Walsh & Gray*, Reading; *Lamb, Brooks, & Co.*, Reading.

[Reported G. H. KNOTT, Barrister-at-Law.]

Court of Criminal Appeal.

REX *v.* BASKERVILLE. 29th May; 31st July.

CRIMINAL LAW—GROSS INDECENCY WITH MALE PERSONS—EVIDENCE—CORROBORATION OF ACCOMPLICES—NATURE AND EXTENT—MATERIAL PARTICULAR IMPLICATING THE ACCUSED.

It is a rule of practice at common law to warn juries of the danger of convicting a prisoner on the uncorroborated evidence of an accomplice. The evidence in corroboration must be independent testimony which affects the accused by connecting, or tending to connect, him with the crime; that is, it must be evidence which confirms in some material particular, not only the evidence that the crime has been committed, but also that the prisoner committed it. The test applicable to determine the nature and extent of the corroboration required is therefore the same in such cases as it is in cases where corroboration is required by statute

The appellant was indicted at the Central Criminal Court for gross indecency with male persons. The evidence against him was mainly that of accomplices, but the prosecution relied on a letter written by the appellant to one of the boy accomplices, signed with his initial B., without any address on the letter, enclosing a 10s. note for the boy to whom it was written and another accomplice, and making an appointment for them to meet him "as arranged." The Recorder directed the jury that this was ample corroboration of the evidence of the accomplices, and the jury convicted the appellant, who was sentenced to twelve months' imprisonment with hard labour. On appeal it was argued that a jury should be warned against convicting a prisoner in such a case unless the evidence of the accomplices was corroborated in some material particular implicating the accused; that there had been no such evidence in this case, and that therefore the Recorder had misdirected the jury.

Lord READING, L.C.J., delivering the written judgment of THE COURT (SCRUTTON, AVORY, ROWLATT and ATKIN, J.J., with him), said: At the close of the arguments we decided that there was ample corroboration of the boys' testimony, even if we assumed that the corroboration required was corroboration in some material particular implicating the accused, and that the warning by the Recorder to the jury was sufficient, if indeed not more than sufficient. We, therefore, intimated that the appeal would be dismissed. Having regard, however, to the arguments addressed to the Court, and to the difficulty of reconciling all the opinions expressed in the cases cited, we took time to consider our judgment. There is no doubt that the uncorroborated evidence of an accomplice is admissible in law: see *R.* v. *Atwood* (1 Leach, 464). But it has long been a rule of practice at common law for the judge to warn the jury of the danger of convicting a prisoner on the uncorroborated testimony of an accomplice or accomplices; the judge should, however, point out to the jury that it is within their legal province to convict upon such unconfirmed evidence: *Reg.* v. *Stubbs* (1 Dearsley, 555); *Reg.* v. *Meunier* (1894, 2 Q. B. 415). This rule of practice has become virtually equivalent to a rule of law, and this Court has held that, in the absence of such a warning by the judge, the conviction must be quashed: *R.* v. *Tate* (1908, 2 K. B. 680). If after a proper caution the jury convict the prisoner, this Court will not quash the conviction merely on the ground that the accomplices' evidence was uncorroborated, but it will, in the exercise of its powers, quash a conviction, even when the proper warning has been given, if, after considering all the circumstances of the case, it thinks the verdict unreasonable or that it cannot be supported, having regard to the evidence. In addition to the rule of practice above mentioned there are, with regard to certain offences, statutory provisions that no person shall be convicted upon the evidence of one witness, unless such witness be corroborated in some material particular implicating the accused (*e.g.*, the Criminal Law Amendment Act, 1885, ss. 2 and 3). In those cases the law is that the judge, in the absence of such corroborative evidence, must stop the case at the close of the case for the prosecution and direct the jury to acquit the accused. The rule of practice at common law has led to differences of opinion as to the nature and extent of the corroboration required. We hold that evidence in corroboration must be independent testimony which affects the accused by connecting, or tending to connect, him with the crime. In other words, it must be evidence which implicates him, that is, which confirms in some material particular not only the evidence that the crime has been committed, but also that the prisoner committed it. The test applicable to determine the nature and extent of the corroboration is thus the same whether the case falls within the rule of practice at common law, or within that class of offence for which corroboration is required by statute. The corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime. The decisions of this Court upon the nature of the corroboration required call for some examination, and it is because they do not always appear to be to the same effect that this Court was specially constituted in order that we might lay down rules for future guidance. Now that we have stated the law to be applied in future cases, we trust that it will be unnecessary again to refer to the earlier decisions of this Court. The appeal stands dismissed.—COUNSEL, *Marshall Hall*, K.C., and *Ginsburg; Bodkin* and *E. C. P. Boyd*. SOLICITORS, *Freke Palmer & Co.; the Director of Public Prosecutions*.

[Reported by A. L. B. THESIGER, Barrister-at-Law.]

New Orders, &c.

New Statutes.

On 10th August the Royal Assent was given to the following Acts:—

The Army (Courts of Inquiry) Act, 1916,
The Trading with the Enemy (Copyright) Act, 1916,

and to some local and private Acts.

Super Tax, 1916-17.

The *London Gazette* of 11th August contains the following notice:—

Notice is hereby given, that under the provisions of the Finance (1909-10) Act, 1910 (10 Ed. 7, cap. 8), and subsequent enactments, it is incumbent upon every individual whose statutory income for the financial year ended the fifth day of April, 1916, exceeded three thousand pounds, to give notice thereof to the Special Commissioners of Income Tax before the 30th day of September, 1916.

Every individual, therefore, who has not already given such notice, or who has not received a form of return for the year 1916-17 from the Special Commissioners of Income Tax, should before that date communicate in writing with their Clerk at York House, Kingsway, London, W.C., from whom the form of return may be obtained.

Dated this 10th day of August, 1916.

J. E. Chapman, Secretary.

Inland Revenue, Somerset House, London.

War Orders and Proclamations, &c.

The *London Gazette* of 11th August contains the following:—

1. A Notice, dated 10th August, of an additional appointment of a member of the Appeal Tribunal under the Military Service Act, 1916, for the North Riding of Yorkshire.

2. A Notice that Orders have been made by the Board of Trade under the Trading with the Enemy Amendment Act, 1915, requiring four more businesses to be wound up; in another case an Order has been made prohibiting a company from carrying on business. The number of businesses affected is now 301.

3. An Admiralty Notice to Mariners, dated 9th August (No. 866 of the year 1916, being a revision of No. 796 of 1916) that Regulations have been made under the Defence of the Realm (Consolidation) Regulations, 1914, with respect to England, South Coast, namely:—

(1) *Beachy Head to St. Albans Head—Traffic Regulations.*
I. Regulations Regarding Trading, Fishing, and Pleasure Craft.
II. Newhaven—Closing of the Port.
The Port of Newhaven is closed to all merchant vessels other than those employed on Government Service, and those which have previously obtained special permission to enter from the Divisional Naval Transport Officer, Newhaven.
III. Spithead Approach—Restriction of Traffic.
IV. Poole Bay and Solent Approach—Restriction of Traffic.
(2) *Portland Harbour Approach—Restriction of Traffic.*

The *London Gazette* of 15th August contains the following:—

4. An Order in Council, dated 15th August, further amending the Proclamation, dated 10th May, 1916, prohibiting the exportation from the United Kingdom of certain articles to certain or all destinations.

5. A Notice that Orders have been made by the Board of Trade under the Trading with the Enemy Amendment Act, 1915, requiring eight more businesses to be wound up. The total number of businesses now affected is 309.

6. An Admiralty Notice to Mariners, dated 11th August (No. 879 of the year 1916, being a re-publication of Notices 1,024 and 1,071 of 1915), that Regulations have been made under the Defence of the Realm (Consolidation) Regulations, 1914, relating to Scotland, West Coast and Hebrides, namely:—

(1) *Firth of Clyde—Traffic Regulations.*
(2) *Stornoway Harbour—Closed by Night.*

Sir Kenelm Edward Digby, G.C.B., K.C., aged 79, of Kingsford, Colchester, county court judge of the Derbyshire Circuit from 1892-95, and Permanent Under-Secretary for the Home Department until 1903, captain of the Harrow eleven in 1853, 1854, and 1855, and a member of the Oxford eleven in 1857 and 1859, left estate of gross value £32,703.

Societies.

The Law Society.

The *Law Society's Gazette* for August says that among the matters dealt with by the Council for the Law Society on 7th and 14th July, before it adjourned for the Long Vacation, were the following:—

MR. R. S. TAYLOR.

The following resolution was passed unanimously:—

"That the Council desire to express to Mr. Richard Stephens Taylor their sincere thanks for his services to the Society and to them during his years of office as Vice-President and President respectively.

"The Council feel that the two years during which Mr. Taylor has held office, commencing, as they did, with the advent of the war in which this country is still involved, must be regarded as among the most critical and momentous years in the history of this as of other similar Societies. They consider that the fact that throughout this period the Society has retained the confidence of the public and its members is due in no small measure to the assiduous and unwearying attention to his duties which has marked Mr. Taylor's years of office.

"The Council desire especially to record the view which they hold that the manner in which Mr. Taylor has by every means in his power encouraged and regulated in the profession recruiting for His Majesty's Forces merits the gratitude of the country no less than that of the Society."

WAR SERVICE EXEMPTION.

Letters were read from members, stating that chartered accountants, over thirty-one and married, have been included in the list of certified occupations, and that similar exemption should be extended to solicitors.

It was resolved that in the opinion of the Council no action should be taken to extend the exemption to solicitors, their view being that the profession, in common with the community in general, is sufficiently protected by the tribunals which have been constituted under the Military Service Acts.

DISTRICT REGISTRIES: ADDRESS FOR SERVICE.

On the recommendation of the Legal Procedure Committee it was resolved that the rule under which the defendant's address for service, when appearance is entered in a District Registry, may be at a place within the district, should be amended so as to limit such address for service to an address within three miles of the Registry, so as to assimilate the practice to that in London, and that a letter be addressed to the Rule Committee accordingly.

COMMERCIAL LAW.

A letter from the Secretary of the British Imperial Council of Commerce, reporting the passing of the following resolution by that Council, was laid on the table:—

"That in the opinion of this Conference it is desirable that Commercial Law should be codified and assimilated as far as possible throughout the Empire and that each branch of Commercial Law should be separately dealt with."

PROVINCIAL MEETINGS.

The President expressed on behalf of the Sussex Law Society their regret that owing to the war they would be deprived of the privilege, to which they had long looked forward, of receiving the Society at Brighton during the coming autumn.

The Belgian Lawyers Relief Fund.

	£	s.	d.
Amounts previously acknowledged	1,960	9	5
James Druitt, Esq.	1	1	0
Chas. A. Freeman, Esq.	1	1	0

Sir E. Carson and German Crimes.

A Reuter's message from Paris, dated the 12th inst., says:—The *Matin* publishes an interview with Sir Edward Carson, who is described as saying:—

Diplomatic relations should not be renewed with Germany until after her crimes have been punished. The Germans are barbarians, whom we should treat as such. Every Allied Government ought to declare to the German people to-day that, when peace is signed, we shall not send any diplomatic representative to Berlin or receive any diplomatic representative from Germany so long as the Germans have not themselves punished all those guilty of murder during the war, and all who have violated the international laws established in the interest of humanity in the course of past centuries.

One reason which renders such action necessary is the fact that the neutrals have passively looked on while these laws were being violated. We must, therefore, take special measures to shew that these rules cannot be infringed with impunity. If we do not take such measures we must, in the future, give up all hope of introducing the laws of humanity in war, and nations would see no sense in sending delegates to diplomatic conferences of any sort.

The Declaration of Paris.

The following letter from Professor Holland appeared in the *Times* of the 15th inst.:—

Sir,—The resuscitation, a few days ago, in the House of Commons of an old controversy reminds one of the mistaken procedure which made such a controversy possible. It can hardly now be doubted that the rules set forth in the Declaration of Paris of 1856, except possibly the prohibition of privateering, have by general acceptance during sixty years, strengthened by express accessions on the part of so many Governments, become a portion of international law, and are thus binding upon Great Britain, notwithstanding her omission to ratify the Declaration. This omission is now seen to have been a mistake. So also was the description of the document as a "declaration." Both mistakes were repeated in 1868 with reference to the "Declaration" of St. Petersburg (as to explosive bullets).

In those early attempts at legislation for the conduct of warfare it seems to have been thought sufficient that the conclusions arrived at by authorized delegates should be announced without being embodied in a treaty. Surely, however, what purported to be international agreements upon vastly important topics ought to have been accompanied by all the formalities required for "conventions," and should have been so entitled. In later times this has become the general rule for the increasingly numerous agreements which bear upon the conduct of hostilities. Thus we have The Hague "conventions" of 1899 and 1907, and the Geneva "convention" of 1906, all duly equipped with provisions for ratification. Such provisions are also inserted in certain other recent agreements dealing with aerial bombardments, gases, and expanding bullets, which it has nevertheless pleased their contrivers to misdescribe as "declarations." Equally so misdescribed was the deceased Declaration of London, with a view, apparently, to suggesting, as was far from being the case, that it was a mere orderly statement of universally accepted principles, creating no new obligations.

Is it not to be desired that all future attempts for the international regulation of warfare should not only be specifically made subject to ratification, but should also, in accordance with fact, be described as "conventions"?—I am, Sir, your obedient servant,

Oxford. 13th August. T. E. HOLLAND.

Obituary.

Qui ante diem periit,
Sed miles, sed pro patria.

Captain Kenneth C. G. Wray.

Captain KENNETH CHRISTOPHER GEORGE WRAY, South Lancashire Regiment, fell on 9th August, aged 25. He was the elder son of the Rev. G. D. Wray and Mrs. Wray, Timperley Vicarage, Cheshire, was educated at Repton and Jesus College, Cambridge, and was afterwards articled to Mr. Herbert Hatton, of Messrs. Robert Davies & Co., solicitors, Warrington. When war broke out he intended to enlist in the ranks of the South Lancashire Regiment, but was offered a commission. He went to the front in February, 1915, and took part in the battle of Hooge in the following June. His commanding officer writes:—"He was absolutely lacking in fear, and his men were absolutely full of confidence in him."

Captain Wallace Fraser.

Captain and Adjutant WALLACE FRASER, Liverpool Regiment, who was killed on 30th July, was the youngest son of the late William Fraser, of Bootle, and was educated at Rugby. He was admitted as a solicitor in 1899, and practised in Liverpool. He enlisted in the "Pals" Battalion in August, 1914, and received his commission a month later. Early in the following spring he was gazetted captain, and later he was promoted adjutant; he had taken over charge shortly before he fell. He was a keen cricketer and captain of the Northern Cricket Club, and raised a considerable sum towards the equipment of the "Pals" Battalion on its formation. His brother, Captain G. W. Fraser, is serving with the Royal Engineers.

Lieutenant P. G. Du Val Haworth.

Lieutenant PERCY GEOFFREY DU VAL HAWORTH, Manchester Regiment, who is reported missing, believed killed, was the only son of Mr. and Mrs. G. P. Haworth, of Bayfield House, Bowdon, Cheshire, and was 22 years of age. He was educated at Marlborough College and was under articles to his father, who practises at Manchester, when war broke out. In September, 1914, he enlisted in the Public Schools Battalion of the Royal Fusiliers, and in January, 1915, he received a commission in the Manchester Regiment, becoming lieutenant a few months later. Lieutenant Haworth was wounded in action on 30th July.

Lieutenant Ronald W. F. Campbell.

Lieutenant RONALD WALKER FRANCIS CAMPBELL, Royal Fusiliers, died on 11th August, at Manchester, of wounds received on 15th July. He was called to the Bar at the Inner Temple in 1913, and held the B.A. and LL.B. degrees. He joined the Royal Fusiliers as Second Lieutenant on the outbreak of war, and had been at the front since July last year. He was the youngest son of Colin Campbell and Mrs. Campbell, of Jura, and was 28 years old.

Second Lieutenant Gerald L. Woulfe.

Second Lieutenant GERALD LASCELLES WOULFE, Northamptonshire Regiment, reported killed on 14th July, was the only son of the late Reginald Talmage Woulfe and of Mrs. Woulfe, of Purley. He was educated at Marlborough College, and admitted a solicitor in 1912, afterwards joining the firm of Messrs. Wakeford, May, Woulfe, & Gwyther, of 37, Bloomsbury-square, W.C. On the outbreak of war he joined the Inns of Court O.T.C., received his commission in December, 1914, and went to the front in June, 1915. His colonel writes that he was killed while leading the remains of his platoon against a strong position in the centre of a wood, and adds:—"He was a most conscientious and gallant soldier, and had done very good work for his regiment on several occasions."

Legal News.

Appointments.

His Honour Judge SCOTT-FOX, K.C., will, as from 1st October, be transferred to the County Courts on Circuit No. 14 (Leeds and Wakefield), in place of his Honour Judge Greenhow, who has resigned his appointment as from that date.

Mr. BARNARD LAILEY, K.C., has been, as from 1st October, appointed Judge of the County Courts on Circuit No. 7 (Birkenhead, &c.), in the place of his Honour Judge Scott-Fox, K.C. Mr. Lailey was called to the Bar by the Middle Temple in 1890, and has practised at the Parliamentary Bar and on the South-Eastern Circuit. He took "silk" in 1914.

Information Required.

CAPTAIN JOHN BALDWIN REDFERN (R.N.R.) (Deceased).—Any solicitor or other person who has at any time prepared, or has any knowledge, of a will, or other testamentary disposition, made by the above-named deceased, who died on the 3rd August, 1914, and whose home was at Walton-on-Trent, near Burton-on-Trent, is requested to communicate with Barnes & Son, solicitors, Lichfield.

WYATT.—ROSE THORNE, half-sister of Jane and Annie Wyatt, whose father was a shepherd at Drayton Beauchamp, near Tring.—Should this meet the eye of the solicitors who inquired for these people at Aston Clinton about six weeks ago, please communicate with Mrs. Herbert, 82, Eccleston-square, Victoria, S.W.

General.

Alderman Arthur Rollit, of Cottingham, Yorks, solicitor, a partner in the firm of Messrs. Rollit & Co., a member of the Hull Corporation since 1877, for many years joint registrar of the Hull County Court, and Deputy-Lieutenant of the Liberty of the Tower, brother of Sir A. K. Rollit, left estate of gross value £31,849.

Application for discharge in bankruptcy was made at Dudley on Tuesday in respect of a receiving order filed more than thirty years ago. It was the case of a nail manufacturer, who is 85 years of age, and is now an insurance agent. Discharge was granted subject to judgment being entered against the debtor for £5.

Mr. Harry Pfahl, solicitor, of Great Marlborough-street, was killed at the Piccadilly-circus station of the Brompton and Piccadilly Tube Railway on Tuesday afternoon by falling from the platform in front of an incoming train. He was a well-known practitioner in the Metropolitan Police Courts, and at the time was returning from Bow-street to his office.

In the House of Commons, on the 10th inst., Lord R. Cecil, replying to Sir J. D. Rees, said:—His Majesty's Government cannot admit that the terms of the Order in Council of 11th March are inconsistent with the obligations assumed under the Declaration of Paris. There is accordingly no occasion to consult the Law Officers as suggested. The hon. member is mistaken in supposing that her late Majesty Queen Victoria did not give her approval to the participation of this country in the Declaration of Paris. As regards his further point—namely, that the Declaration has not been ratified—I would beg leave to point out that the instrument contains no provision for ratification, and that ratification is not always an essential formality in order to give effect to an international arrangement.

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

London Gazette.—FRIDAY, Aug 11.

CEYLON TEA AND COFFEE CO, LTD. (IN LIQUIDATION).—Creditors are required, on or before Sept 11, to send in their names and addresses, with particulars of their debts or claims, to Charles James Andrews, 30, Coleman st, liquidator.

A. GREENSHIELDS & CO, LTD. (IN VOLUNTARY LIQUIDATION).—Creditors are required, on or before Sept. 25, to send their names and addresses, and the particulars of their debts or claims, to Athelstan Dangerfield, 56, Cannon st, liquidator.

STEAMSHIP "CUMBERLAND" CO, LTD.—Creditors are required, on or before Sept. 11, to send in their Christian and surnames, their addresses and descriptions, and full particulars of their debts or claims, to Arthur George Oldam, 30, The Temple, 24, Dale st, Liverpool, liquidator.

JOINT STOCK COMPANIES

LIMITED IN CHANCERY.

London Gazette.—TUESDAY, Aug. 15.

BRITISH BORNEO EXPLORATION CO, LTD. (IN LIQUIDATION).—Creditors are required, on or before Oct. 14, to send their names and addresses, and the particulars of their debts or claims, to Edmund Davis and Hethn. White, 19, St. Swithin's ln, two of the liquidators.

BURNETT & SON, LTD.—Creditors are required, on or before Sept. 4, to send their names and addresses, and the particulars of their debts or claims, to Horace Walker Sargant, 6, Mincing ln, liquidator.

LIVERPOOL STAVE CO, LTD.—Creditors are required, on or before Nov. 1, to send their names and addresses, and the particulars of their debts or claims, to Lamb, Kyffin-Taylor & Co, 41, North John st, Liverpool, solicitors to the liquidator.

MECHANICAL TRANSPORT LTD.—Creditors are required, on or before Sept. 28, to send their names and addresses, and the particulars of their debts or claims, to Geo. W. Askew and H. W. Philpott, Finsbury House, Blomfield st, liquidators.

ROTARY ENGINEERING CO, LTD.—Creditors are required, on or before Sept. 9, to send their names and addresses, and the particulars of their debts or claims, to James Edward Grace, 24, Clare st, Bristol, liquidator.

Creditors' Notices.

Under 22 & 23 Vict. cap. 35.

LAST DAY OF CLAIM.

London Gazette.—FRIDAY, Aug 4.

ASHTON, GEORGE, Altrincham, Cheshire, Mechanic Aug 25 Swire & Higson, Manchester
ASTON, HENRY HOLLIS, Harborne, Birmingham, Metal Merchant's Agent Sept 2 Cottrell & Son, Birmingham
ATKINSON, JOHN ALLEN, Caroline pl, Mecklenburgh sq, Law Stationer Sept 5 Mowll & Mowll, Howard House, Arundel st
BADELEY, CHARLES SAMUEL, Hove, Sussex Sept 2 Fitz Hugh & Co, Brighton
BEARDALL, ROBERT, Fortman mans, Middlx Sept 4 Beardall & Co, George st, Hanover sq
BECK, CHARLES BROUGHTON HARROP, Bedford Sept 9 Blunt & Brocklehurst, Macclesfield
BLADON, MARY ANN, King's Heath, Birmingham Sept 4 Ansell & Sherwin, Birmingham
BLOOMFIELD, WILLIAM, Bexley Heath, Kent Sept 9 Piper, Vincent sq, Westminster
BOWLER, ELIZA, Aspley Heath, Bedford Aug 25 Tanqueray, Woburn, Beds
BRINDLE, ROBERT FRANCIS, Prescot, Lancs, Surgeon Sept 15 Hutchen, St Helens
BRITTAIN, VERNON, The Lilies, nr Aylesbury, Bucks Sept 5 Bell & Co, Queen Victoria st
BROWN, JOHN PUNTIS, Ventnor, Isle of Wight Sept 6 Buckell & Drew, Ventnor
BROWN, SARAH ANN, Finchley rd Sept 5 Rundle & Hobrow, Basinghall st
CABBLE, JANE, Bristol Sept 2 Gwynn & Co, Bristol
CAVE, CATHERINE MARGARET, Herne Bay Sept 4 Potter & Co, Queen Victoria st
CLARK, GEORGE STIRLING, Redland, Bristol Sept 2 Gwynn & Co, Bristol
CLAXTON, THOMAS, Edward st, Dorset sq Sept 9 Gould & Stephens, Exeter
CRAWFORD, ALEXANDER DE CASTRO, Winchester Aug 31 Shenton & Farn, Winchester
CRIGHTON, GEORGE EDWIN, Nyamandhloon, Southern Rhodesia Sept 1 MacMillan & Mott, Clements la
CROOK, PETER, Birkdale, Lancs, Cotton Spinner Oct 1 Bradbury, Bolton
CROWLEY, AGNES, Eastbourne Sept 1 Downie & Gadban, Alton, Hants
FISHER, ROSA EMILY, Netheravon rd, Chiswick Sept 14 Robb & Welch, Bedford row
GALE, ANNE JANE, Aigburth, Liverpool Sept 12 Collins & Co, Liverpool
GILL, MARY CLIFFORD, Belper, Derbyshire Sept 30 Clarke, Surrey st
GRANT, GEORGE EPHRAIM, Hamilton rd, West Norwood Sept 5 Finch & Co, Cannon st
HART, JAMES DERRIS, Whitcombe st Sept 7 Sharp, Jermyn st
HEPPENSTALL, ELIZABETH ANN, Armitage Bridge, nr Huddersfield Aug 26 Booth & Newsome Wright, Huddersfield
HILL, MAURICE CRIDLAND, Ponteland, Northumberland, Solicitor Aug 31 Ingledew & Fenwick, Newcastle on Tyne.
HOLMES, JOHN, Cheetham, Manchester, Potato Merchant Sept 7 Wilson, Manchester
HUBBLE, CHARLES BENJAMIN, Hartham rd, Islington, Haberdasher and Toy Merchant Sept 4 Parker & Co, St Michael's Rectory, Cornhill
LAWSON, JOHN, Sharples, nr Bolton, Stockbroker Sept 30 Winders, Bolton
LEE, DAVID, Whitley Bay Aug 31 Ryott & Swan, Newcastle upon Tyne
LEE, ELIZA, Whitley Bay Aug 31 Ryott & Swan, Newcastle upon Tyne
LIGHT, HENRY, Congresbury, Somerset, Sub-Postmaster and Grocer Sept 2 Powell, Weston super Mare
LINGARD, ELIZA HALL, Heaton Moor, Lancs Aug 31 Hamer, Ashton under Lyne
LONSDALE, ADOLPHUS, Southwick, Sussex Sept 16 Scatcherd & Co, Leeds
MCKEAN, THOMAS HASLAM, Lytham, Lancs, Cotton Spinner Sept 30 Winders, Bolton
MELLOR, ELIZA, Burton upon Trent Aug 31 J & W J Drewry & Newbold, Burton on Trent
NANCARWEN, JANE CLAXSTON, Brixham, Devon Sept 9 Gould & Stephens, Exeter
NEILD, JOHN REGINALD JEWSBURY, Buenos Aires Sept 30 Lightbody, Victoria st, Westminster
NIELD, MARGARET, Exeter Sept 5 Jackson & Parkhouse, Exeter
OPENSHAW, CECIL HOWARD, Lancaster Moor, Lancaster Sept 2 Woodcock & Sons, Bury
PADDOCK, FRANCIS WILLIAM, Palace rd, Upper Norwood Sept 6 Morley & Co, Gresham House, Old Broad st
PARNALL, HENRY JAMES, Weston super Mare Aug 31 Morgan & Co, Newport, Mon
PARTRIDGE, MARY ANN, Norfolk rd, Regent's Park Sept 4 Bell & Son, Bedford
PUCKLE, AUGUSTA MARY, Glastonbury, Somerset Sept 5 Van Sommer & Chilcott, Arundel st, Strand
PRICE, MARY, Wroughton rd, Battersea Rise Sept 8 Goddard & Co, Clement's inn
REYNOLDS, SARAH, Rosendale rd, Herne Hill Aug 31 Martin & Co, Ironmonger la
REYNOLDS, WILLIAM HARPHAM, Brighton Sept 13 Cushman & Cunnigham, Brighton
ROCHE, CAROLINE ANNA, SOPHIE, Westcliff, Essex Sept 3 Keene & Co, Seething la
ROWCLIFFE, JOHN BARNOUIN, West Didsbury, Manchester Sept 20 Milne & Co, Manchester
SANT, JAMES, Lancaster gate, Hyde Park, RA Sept 9 Capel & Co, Clement's inn
SHARP, FRANCIS, Pickering, Yorks, Platelayer Sept 4 Whitehead & Son, Pickering
SIMMONS, FREDERICK, Hove, Sussex, Furniture Dealer Sept 10 Gates & Co, Brighton
SMALL, MARY, Hamilton gdns, St John's Wood Sept 1 Barfield & Child, Flowden bldgs
STANWORTH, LEVI, St Anne's on the Sea, Lancs Sept 1 Lonsdale & Grey, St Anne's on the Sea
THOMPSON, EMILY, Boyne rd, Lewisham Aug 31 Mason, Blackheath
TUGMAN, HERBERT ST. JOHN, Gunnersbury ln, Acton, Gold Miner Oct 12 Speed, Sackville st
WADD, FREDERICK JOHN, Richmond, Surrey Aug 31 Crosse & Sons, Lancaster pl, Strand
WARD, JAMES EYRE DRUMMOND, Tunbridge Wells Sept 29 Cripps & Co, Tunbridge Wells
WHITAKER, JOHN SAFFERY, Bratton, nr Westbury, Wilts, Farmer Sept 2 Gough & Son, Calne, Wilts
WILLIAMS, ELIZA, Hove, Sussex Sept 11 Slaughter & May, Austin friars
WOTTON, ELIZABETH, Flemington, Victoria, Australia Sept 4 Flegg & Son, Laurence Pountney hill
WRIGHT, EDWARD, Macclesfield Sept 9 Blunt & Brocklehurst, Macclesfield
YOUNG, HENRY PERCY, Cheniston gdns, Kensington Sept 14 Robb & Welch, Bedford row

London Gazette.—TUESDAY, Aug. 8.

ANDERSON, ALEXANDER DINGWALL, Farnborough, Hants Sept 11 Foster & Wells, Farnborough
ARNOLD, JANE, Burton on Trent Sept 5 Taylor, Burton on Trent
BARNES, EDMUND LYNDON, Knightsbridge, Barrister at Law Oct 1 Powys, Lincoln's Inn fields
BLAKE, HENRY, Broughton Hackett, Worcester Sept 1 Beauchamp & Gallaher, Worcester
CARY-ELWES, WINDSOR, Campden, Glos Sept 10 Sowton & Co, Dulverton, Somerset
CONCHAR, ROBERT, Bingley, Yorks Aug 24 Simpson & Curtis, Leeds
COOKES, GEORGIANA ELLEN, Cheltenham Sept 15 Lindsay & Co, Ironmonger la
COX, THOMAS GRAHAM, Disley, Cheshire Sept 20 Lynde & Branthwaite, Manchester
DAYMOND, SOPHIA, Exeter Sept 29 Pring Exeter
FENTON, WILLIAM LEONARD, Upper Brighton, Wallasey, Cheshire Sept 1 Stockdales, Wednesbury
FITZGERALD, OSWALD ARTHUR GERALD, York House, St James's Palace Oct 1 Minet & Co, Dowgate hill, Cannon st
FLORENCE-BOWEN, Dame LETITIA, Brighton Sept 9 Johnson & Co, New sq, Lincoln's inn
FULLMER, Rev HERBERT GRAHAM, Scarborough Sept 8 Tasker & Co, Scarborough
GABLE, GEORGE HERBERT, Belvedere, Kent, Coal Factor Sept 18 Stone, Powis st, Woolwich
GARDNER, MARY JANE, Plymouth Sept 5 Elliot & Co, Plymouth
GILES, FREDERICK JAMES, Southampton, Cabinet Maker Sept 29 Stephens & Locke, Southampton
GILSON, SARAH EMMA, Chelmsford Sept 6 K & W Daniel, Ramsgate
GOSLING, HARRIETT CAROLINE, Onslow sq Sept 1 Gard & Co, Gresham bldgs, Basinghall st
GREENWOOD, FRANCES DELIA ADELAIDE, Hove, Sussex Sept 4 Freeman & Son, George st, Hanover sq
GWYNNE-HOLFORD, JAMES PRICE WILLIAM, Buckland, Brecon Sept 30 Rider & Co New sq, Lincoln's inn
HAMMOND, ANNE DIANA, Minster, Kent Sept 6 K & W Daniel, Ramsgate
HARTLEY, JOHN, Hapton, nr Burnley Sept 4 Lawson & Jobling, Burnley
HOLMESTED, ERNEST AUGUSTUS, Bedford Oct 3 Davies, Cannon st
INNES, HUGH WILMOT, Sevenoaks, Kent Sept 20 Sewell & Co, Bucklersbury
ISMAY, ELEANOR, Winnipeg, Manitoba, Canada Sept 15 Linklater & Co, Bond ct, Walbrook
KIRKLEY, JAMES, Cleadon Park, Durham Sept 29 Halligey & Co, Copthall av
LEES, LEES, Ardwick, Manchester Sept 15 Rowntree & Ritson, Oldham
LIGGINS, EDWARD, Bentley, nr Walsall, Licensed Victualler Sept 20 Evans & Son, Walsall
MACKENZIE, MARIAN, Ashchurch grove, Ravenscourt Park, Middlx Sept 15 Bird & Lovibond, Uxbridge
MAXWELL, RICHARD DRUMMOND, Devonshire st, Portland pl, Surgeon Sept 1 Gard & Co, Gresham bldgs, Basinghall st
NEWTON, EMILY ANN, Kingston upon Hull Oct 2 Woodhouse & Chambers, Hull
NUGENT, RICHARD FRANCIS ROBERT, Datchet, Berks Sept 2 Lanfear & Co, Cannon st
O'BRIEN, RUTH, Northumberland st, Baker st Sept 17 Allen & Son, Carlisle st
PALEY, FRANCISCA SARATJEE, Hove, Sussex Sept 6 K & W Daniel, Ramsgate
PARISH, JOSEPH, Kingston upon Hull, Labourer Sept 8 Pearlman, Hull
READ, DINAH, Sale, Chester Sept 22 Cobbett & Co, Manchester
ROBINSON, ANTHONY GEORGE, Northwood, Middlx, Shipping Agent Sept 15 Batham & Son, Fowkes bldgs, Great Tower st
ROLBIN, HYMAN, Middleton, nr Manchester Sept 4 Orrell, Manchester
SARGOOD, JAMES, Chrysell rd, Vassall rd, Brixton, Instrumental Musician Oct 1 Barnard, York rd, Lambeth
SKINNER, JOHN, Greencroft gdns, South Hampstead Sept 9 Moon & Co, Bloomsbury sq
SMITH, EDWIN, Saltash, Cornwall Sept 5 Elliot & Co, Plymouth
SMITH, WILLIAM BORTHWICK, Emsworth, Hants Sept 10 Twynam, Poultry Chmbrs, Poultry
SMITH, WILLIAM REYNOLDS, Dartford, Kent, Sand and Ballast Merchant Sept 5 Scott, Dartford
STARK, GERTRUDE FRANCIS, Faubourg St, Honore, Paris Sept 16 Paines & Co, St Helen's pl
STONOR, Hon. HOWARD CAREW, Curzon st Sept 4 Guscotte & Fowler, York bldgs, Adelphi
STEVENSON, MARY ANN, Windsor rd, Ealing Sept 18 Hetherington, Bond st, Ealing
TYSON, WILLIAM JOHN, Exeter Sept 1 Read & Brown, Liverpool
WALKER, JANE SHARPLES, Liscard Sept 1 Read & Brown, Liverpool
WILDE, JAMES, Liverpool Sept 10 Layton & Co, Liverpool
WILLIAMS, GWENLLIAN, St Fagans, Glam Sept 15 Spencer & Evans, Cardiff
WOOD, GEORGE, Wallington, Surrey, Sept 15 Gush & Co, Finsbury cir

London Gazette.—FRIDAY, Aug 11.

BARDOLPH, EMILY KATHERINE QUIN, Princes Risborough, Bucks Sept 16 Bond, Broadway, Ealing
BERG, KRISTOFER, Christiania, Norway Sept 9 Tatham & Lousada, Old Broad st
BETTS, MARIA, Pembury, Tunbridge Wells Sept 23 Sturt, Old Jewry
BLAKE, EDMUND WALLACE, Cheltenham Sept 20 Leont & Deards, Bedford row
BLAKER, FREDERICK, Worthing, Sussex, Ironmonger Sept 18 Verrall & Sons, Worthing
BOOTE, JOSEPH THOMAS, Halghton, Flint, Farmer Sept 1 Giles, Ellesmere, Salop
BOURNES, EDWIN, Ardwick, Manchester, Joiner Oct 7 Houstoun, Duchy of Lancaster Office
BROWNLOW, Field Marshal Sir CHARLES HENRY, G.C.B., Bracknell, Berks Sept 29 Rogers & Co, Victoria st, Westminster
CONSTABLE, MARMADUKE, Lauderdale mans, Maida Vale Sept 20 Marson & Toulmin, Southwark Bridge rd
CONVERY, SARAH JANE, Leeds Sept 21 Stewart, the Public Trustee, Kingsway
COOPER, BETSY, Cromer, Norfolk, Milliner Sept 16 Hansells & Hales, Cromer
CORKHILL, WILLIAM, Lyndhurst Roby, Lancaster, Marine Superintendent Sept 23 Hill & Co, Liverpool
DALWOOD, JOHN HALL, Sherborne, Dorset Sept 5 Vfooks & Grimley, Sherborne
EADE, Sir PETER, Norwich, MD Oct 11 Overbury & Co, Norwich
FEATHER, MARY ANN ELIZABETH SADLER, Palling, Norfolk, Grocer Sept 6 Overbury & Co, Norwich
FORD, DOUGLAS MOREY, Tunbridge Wells, Solicitor Sept 15 Smith & Co, Bread st
GIBSON, MARY, Bradford Aug 31 Ratcliffe & Co, Bradford
GODWIN, SIDNEY, Talgarth rd, West Kensington Sept 22 Pollard, South sq, Gray's inn
GOOD, ELIZABETH ANN, Kingston upon Hull Sept 15 Payne & Payne, Hull
GRAYSON, RICHARD, Savernake rd, Hampstead Sept 16 Woodbridge & Son, Serjeants' inn
HALL, RICHARD, Lincoln, JP Sept 7 Burton & Co, Stonebow, Lincoln
HARTILL, JOHN HARRY, Knowle, Warwick Aug 30 Shakespeare & Vernon, Birmingham
HEAD, VINCENT, Marlborough, Tailor Sept 21 Pain, Marlborough
HEBDEN, CHARLES SPENCER BRANSBY, Carcoar, New South Wales Sept 12 Kimbers & Boatman, Lombard st
HERNE, ELIZA ELIZABETH Kirkley, Suffolk Sept 26 Holt & Taylor, Lowestoft
HOWARD, GEORGE JOHN, Norwich, Carpenter Sept 19 English, Norwich
JECKS, BARBARA CLAPPERTON, Kersal, Manchester Sept 12 Budd & Co, Austin Friars
JONES, HENRY, Wrexham Sept 15 Evans & Jones, Ruthin
MARKS, WILLIAM, Camborne, Cornwall, Miner Sept 26 Daniell & Thomas, Camborne
NEWMAN, THOMAS WILLIAM, Keynsham, Somerset, Licensed Victualler Sept 30 Fox & Whittucks, Bristol
OVEREND, JAMES, Ravensthorpe, Dewsbury, Yorks, Contractor Sept 16 Wood, Dewsbury
PAGET, FREDERICK WALTER, Loughborough, Leicester Sept 11 Woolley & Co, Loughborough
PEARCE, ELLEN, Southsea Sept 15 Cousins & Burbidge, Portsmouth
PLEASANCE, SARAH, Gloucester terr, Hyde Park Sept 18 Wild & Collins, St Lawrence House, Trump st
PONTIFEX, ALICE MAUDE, Hove Sept 29 Gamlen & Co, Gray's inn sq
PUDDICK, JOHN, Bognor Sept 22 Staffurth, Bognor
ROBINSON, FREDERICK, Bedford Sept 14 Austin, Bedford
SCHOLEY, CHARLES HENRY, Brighouse, Publican Sept 8 Richardson, Brighouse